

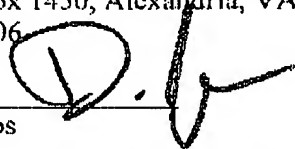
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patent App. No. 10/728,726
First Named Inventor: BURKE, Thomas C.
Filed: 12/05/2003
Attorney Docket: NEX-101-US
PTO Confirmation No. 1726
Art Unit: 1774
Examiner: FERGUSON, Lawrence D.

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JUN 06 2006

Certificate of Fax Transmission: I hereby certify that this correspondence is being transmitted via facsimile to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA, 22313-1450, Fax. No. 571-273-8300, on this day, June 6, 2006

Signature of Person Faxing: 
Name of Person Faxing: David A. Jacobs

Attention: Legal Instruments Examiner Eugenia V. Hardy

RESPONSE

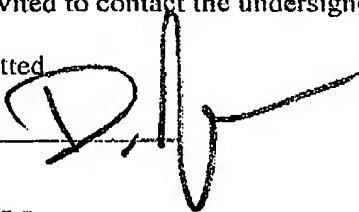
In response to the "Notice of Non-Compliant Amendment" mailed 5/30/2006 (copy attached), which alleged that the Amendment filed 5/23/2006 was non-compliant because " 'amended herewith' is not a proper identifier," attached hereto is the "corrected section" of the allegedly non-compliant Amendment -- i.e., those pages of the Amendment setting forth the listing of claims.

The difference between the attached replacement pages, and the pages they replace, are as follows: In the attached pages, the claim status identifier "Currently Amended" is used in place of the previously used "Amended Herewith."

The previously used status identifier "Amended Herewith" clearly and accurately designated the status of the corresponding claims, and complied with the spirit and scope of the Official Gazette Notice of June 6, 2005, but the Applicant makes the noted change in order to respond to the 5/30/2006 Notice.

The Examiner is invited to contact the undersigned by telephone or email if there are any questions.

Respectfully submitted


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**Notice of Non-Compliant
Amendment (37 CFR 1.121)**

Application No.

10/728,726

Examiner

eugenia v. hardy

Applicant(s)

BURKE ET AL.

Art Unit

1774

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

The amendment document filed on 23 May 2006 is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121 or 1.4. In order for the amendment document to be compliant, correction of the following item(s) is required.

THE FOLLOWING MARKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

- ☐ 1. Amendments to the specification:
- ☐ A. Amended paragraph(s) do not include markings.
 - ☐ B. New paragraph(s) should not be underlined.
 - ☐ C. Other _____.
- ☐ 2. Abstract:
- ☐ A. Not presented on a separate sheet. 37 CFR 1.72.
 - ☐ B. Other _____.
- ☐ 3. Amendments to the drawings:
- ☐ A. The drawings are not properly identified in the top margin as "Replacement Sheet," "New Sheet," or "Annotated Sheet" as required by 37 CFR 1.121(d).
 - ☐ B. The practice of submitting proposed drawing correction has been eliminated. Replacement drawings showing amended figures, without markings, in compliance with 37 CFR 1.84 are required.
 - ☐ C. Other _____.
- ☒ 4. Amendments to the claims:
- ☐ A. A complete listing of all of the claims is not present.
 - ☐ B. The listing of claims does not include the text of all pending claims (including withdrawn claims)
 - ☒ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. Note: the status of every claim must be indicated after its claim number by using one of the following status identifiers: (Original), (Currently amended), (Canceled), (Previously presented), (New), (Not entered), (Withdrawn) and (Withdrawn-currently amended).
 - ☐ D. The claims of this amendment paper have not been presented in ascending numerical order.
 - ☒ E. Other: Claims 1,3,5,7 and 10 amended herewith is not a proper identifier.
- ☐ 5. Other (e.g., the amendment is unsigned or not signed in accordance with 37 CFR 1.4):

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP § 714.

TIME PERIODS FOR FILING A REPLY TO THIS NOTICE:

- Applicant is given **no new time period** if the non-compliant amendment is an after-final amendment or an amendment filed after allowance. If applicant wishes to resubmit the non-compliant after-final amendment with corrections, the **entire corrected amendment** must be resubmitted.
- Applicant is given **one month**, or thirty (30) days, whichever is longer, from the mail date of this notice to supply the correction, if the non-compliant amendment is one of the following: a preliminary amendment, a non-final amendment (including a submission for a request for continued examination (RCE) under 37 CFR 1.114), a supplemental amendment filed within a suspension period under 37 CFR 1.103(a) or (c), and an amendment filed in response to a *Quayle* action. If any of above boxes 1. to 4. are checked, the correction required is only the **corrected section** of the non-compliant amendment in compliance with 37 CFR 1.121.

Extensions of time are available under 37 CFR 1.136(a) **only** if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action.

Failure to timely respond to this notice will result in:

Abandonment of the application if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action; or
 Non-entry of the amendment if the non-compliant amendment is a preliminary amendment or supplemental amendment.

Legal Instruments Examiner (LIE), if applicable

Telephone No.

U.S. Patent and Trademark Office

Part of Paper No. 20060526